

REMARKS

The Office Action in the above-identified application has been carefully considered and this amendment has been presented to place this application in condition for allowance.

Accordingly, reexamination and reconsideration of this application are respectfully requested.

The Examiner is thanked for allowing claims 62-66 and considering claims 7-11, 13-17, 27, 28, 30, 32, 33, 35-39, and 80-82 allowable if rewritten in independent form.

Claims 1-29, 31-45, 47, 62-76, and 80-82 are in the present application. Claims 4, 8, 26, 29, 32, 33, 36, 39, and 80-82 have been amended. It is submitted that these claims, as originally presented, were patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. Changes to the claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. sections 101, 102, 103 or 112. Rather, these changes are submitted simply for clarification. Claims 30, 48, and 77-79 are cancelled.

Applicants acknowledge with appreciation the indication by the Examiner that claims 7-11, 13-17, 27, 28, 30, 32, 33, 35-39, and 80-82 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Independent claim 29 has been rewritten to include the elements of cancelled allowable claim 30. Further, claims 33, 36, 39, and 80-82 have been rewritten including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants believes claims 29, 31-45, and 80-82 should now be in condition for allowance.

As to the rejection based upon 35 U.S.C. § 112, the claims have been amended or cancelled to address each of the concerns raised by the Examiner. No new matter has been added.

On the merits, claims 67 and 70 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,561,219 to Nishizawa et al. (“Nishizawa”). The rejection is respectfully traversed.

The instant claims are directed to, *inter alia*, a seamless, woven, flexible fluid containment vessel or vessels for transporting and containing a large volume of fluid or fluidisable material, particularly fresh water. The instant invention includes, *inter alia*, woven seamless fabric impervious to water and other fluids or fluidisable materials having a density less than that of salt water. Thus, the material must be impervious to water.

Nishizawa relates to a textile mat for industrial use in the field of civil engineering, more particularly to a woven mat provided with a plurality of hollowed portions for containing sand or gravel. (Col. 1 lines 37-31). The textile mat, in Nishizawa, is filled with sand or gravel by poring a slurry composed of water and insoluble matters such as sand, gravel, etc. into hollowed portions, while water passes through the numerous fine intervened end spaces between the textile yarns of the woven mat. (Col. 2, lines 10-16). Further, the woven mat may be treated in such a way that the porosity of the woven mat is maintained. (Col. 3, lines 23-29). Still further, Nishizawa provides that the efficiency of the filling operation is lowered if the size of the unit mesh of the woven mat is so small that it becomes difficult for water to pass through without application of high pressure. (Col. 3, lines 44-53).

Nishizawa does not disclose, teach, or suggest that its invention is impervious to water and other fluids or fluidisable materials having a density less than that of salt water. In fact, Nishizawa provides that water passes through intervened end spaces between the textile yarns of the woven mat. Indeed, Nishizawa provides for coating the fabric to increase porosity.

Applicants disagree with the Examiner's conclusion, that "[s]ince the vessel [in Nishizawa] is impervious to the fluidisable material of sand, the vessel will also be impervious the fluidisable material of ping pong balls" and thus meets the elements of claim 67. As mentioned above, claim 67 requires the vessel to be impervious to water. Whether the vessel disclosed in Nishizawa is impervious to ping pong balls or sand still does not meet the claimed elements.

As the reference cited by the Examiner does not contain each and every element of claim 67 and its dependent claim 70, the rejection under section 102(b) must fail as a matter of law.

Therefore, in view of the foregoing, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(b) are respectfully requested.

Claims 1-6, 12, 18-26, 29, 31, 34, 40-45, and 48 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 2,997,973 to Hawthorne et al. ("Hawthorne") in view of U.S. Patent No. 5,421,128 to Sharpless et al. ("Sharpless").

In response to the rejections, independent claim 29 has been rewritten to include the elements of cancelled allowable claim 30. Thus, claims 29 and dependent claims 31, 34, and 40-45 should be considered allowable. The rejection as to the remaining claims are respectfully traversed. None of the references, either individually or in combination, teach or suggest Applicants' invention.

The Examiner concedes that Hawthorne does not disclose at least one longitudinal stiffening beam, said beam being integral with the tubular structure. (*Office Action* at 4). The Examiner believes, however, that Sharpless remedies these deficiencies. Applicants disagree.

Claim 1 recites a flexible fluid containment vessel for the transportation of cargo comprising a fluid or fluidisable material, said vessel comprising, *inter alia*, a longitudinal

stiffening beam being integral with said tubular structure and subject to pressurization and depressurization. Such an invention is not disclosed, suggested or implied in Hawthorne, either alone or in combination with Sharpless. More specifically, the references fail to disclose or suggest, *inter alia*, a longitudinal stiffening beam being integral with said tubular structure and subject to pressurization and depressurization.

Sharpless discloses a curved, inflated, tubular beam, where the curvature is determined by the arrangement of bias and axial fibers. The Examiner states that “[t]he beams are subject to the pressurization and depressurization of the atmosphere of the vessel.” (*Office Action* at 4). In contrast, the stiffening beams of the present invention are intended to be pressurized with air or other medium (Page 10, lines 16-20) and thus subject to pressurization and depressurization. (Claim 1). Therefore, the stiffening beams of the instant claims are subject to pressurization and depressurization independent of the pressure of the tubular vessel.

At best, the fibers provided in Sharpless are subject to tension upon inflation of the tubular vessel and not subject to pressurization and depressurization. (Col. 2, lines 43-45).

Therefore, the references, either individually or in combination, do not teach or suggest Applicants’ invention.

Consequently, reconsideration and withdrawal of the Section 103 rejections are warranted and respectfully requested.

In addition, claims 25, 26, 47, and 48 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the modified invention of Hawthorne (in view of Sharpless) further in view of U.S. Patent No. 4,668,545 to Lowe (“Lowe”). As noted above, claim 47 is believed to be allowable as dependent on an allowable claim. Further, claim 48 is canceled as dependent on

a cancelled claim. The rejections as to the remaining claims are respectfully traversed. None of the references, either individually or in combination, teach or suggest Applicants' invention.

The Examiner concedes that Hawthorne does not teach the use of fibers with low melting points to fill the voids in the weave. The Examiner believes that Lowe allegedly remedy these deficiencies. Applicants disagree.

Lowe is relied upon solely to meet the requirement for a "low melting fiber or low melting component" of claims 25 and 26. (*Office Action*, at 5). However, since dependent claims 25 and 26 inherits the limitations of independent claim 1, the rejection based on the additional reference to Lowe should be withdrawn in view of the foregoing discussion.

Consequently, reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

Claims 68 and 69 were rejected under 35 U.S.C. § 103(b) as allegedly being unpatentable over the modified invention of Nishizawa in further view Hawthorne. The rejection is respectfully traversed.

There is no incentive or motivation for modifying the reference teachings. Nishizawa and Hawthorne do not possess the requisite suggestion or motivating recitation that would lead a skilled artisan to practice claims 68 and 69. As mentioned above, Nishizawa relates to a textile mat provided with a plurality of hollowed portions for containing sand or gravel, while Hawthorne relates to a vessel for transporting or storing liquids. Nishizawa's teachings are incompatible with the present invention. Specifically, water is allowed to pass through the textile mat provided in Nishizawa. Thus, the cited references do not possess the requisite suggestion or motivating recitation that would lead a skilled artisan to practice the instant claims.

Further, Nishizawa provides that the efficiency of the container is lowered if it is difficult for water to pass through the mesh. Thus, Nishizawa teaches away from the instant invention, which requires a woven seamless fabric impervious to water. There is no disclosure, teaching or suggestion that would motivate a skilled artisan to practice the instantly claimed invention.

The Examiner is respectfully reminded that the requisite expectation of success under settled U.S. case law can not be found in Applicants' specification and that an obviousness rejection based on hindsight is impermissible. The Examiner is also reminded that it is equally impermissible to pick and choose portions from disparate references in order to formulate an obviousness rejection.

The Federal Circuit in *In re Fine* was very clear that "obvious to try" is not the standard on which an obviousness rejection should be based. And as "obvious to try" would be the only standard that would lend the instant rejection any viability, the rejections must fail as a matter of law.

In addition, Hawthorne is relied upon solely to meet the recitation "means for filling and emptying comprises a tube woven seamless with said tubular structures allowing fluid communication therebetween." (Claims 68 and 69) However, since dependent claim 68 inherits the limitations of independent claim 67, the rejection based on the additional reference to Hawthorne should be withdrawn in view of the foregoing discussion.

Consequently, reconsideration and withdrawal of the Section 103 rejections are warranted and respectfully requested.

Further, claims 71-74 and 77-79 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hawthorne in view of GB 826,301 to Ashton. In response to the rejections, claims 77-79 are cancelled. The rejection as to the remaining claims are respectfully

traversed. None of the references, either individually or in combination, teach or suggest Applicants' invention.

The Examiner cites Ashton because it "discloses a flexible containment vessel that comprises longitudinal stiffening beams held in a pocket, said pockets (8 and 9) on the outside of the vessel." (*Office Action*, at 7). Claims 71-74 disclose a flexible fluid containment vessel for the transportation and/or containment of cargo comprising a fluid or fluidisable material, said vessel comprising, *inter alia*, a stiffening beam being maintained within a sleeve woven seamless with the tubular structure. Neither Hawthorne nor Ashton provide a sleeve that is woven seamless to the tubular structure. At best, the Examiner alleges that Ashton discloses a pocket. But the seamless woven sleeve of claims 71-74 provide greater reinforcement to the vessel to prevent oscillation. Further, the seamless woven sleeve secures the position of the stiffening beam to prevent drag, whereas the affixed pockets disclosed in Ashton may contribute to drag forces. Therefore, the references, either individually or in combination, do not teach or suggest Applicants' invention.

Consequently, reconsideration and withdrawal of the Section 103 rejections are warranted and respectfully requested.

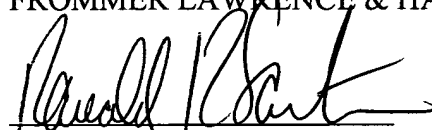
In view of the foregoing amendment and remarks, it is respectfully submitted that the application as now presented is in condition for allowance. Early and favorable reconsideration of the application are respectfully requested.

The Assistant Commissioner is authorized to charge any additional fee, or credit any overpayment, to Deposit Account No. 50-0320.

Accordingly, it is submitted that the invention as claimed is distinct from the art and a notice of allowance is earnestly solicited.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in black ink, appearing to read "Ronald R. Santucci", written over a horizontal line.

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